

Remarks

1) Summary of Office Action of May 11, 2004

This letter is responsive to the Examiner's Office Action of May 11, 2004. At the time of that Office Action claims 1 – 7, 13 – 21, 24, 28, 29, 32 – 34, 41 – 54, and 57 – 83 were pending in the case. The Office Action indicated that:

- (a) Claims 1 – 7, 13 – 21, 24, 28, 29, 32 – 34, 41 – 45 and 72 - 82 are allowed;
- (b) Claims 8 – 12, 22, 23, 25 – 27, 30, 31, 35 – 40, 55 and 56 had been cancelled;
- (c) Claims 46 – 49, 51, 52, 54, 57 – 61, 63, and 64 stand rejected; and
- (d) Claims 1 – 5 and 66 – 71 are objected to.

There appears to be no indication of the status of claims 50, 53, 62, 65, or 83.

2) Claim 1

The Applicant has made the grammatical change to claim 1 suggested by the Examiner. The Applicant has made this amendment not for the purposes of patentability, but merely as a suggested grammatical change of style that does not in any way lessen the scope of the claim.

3) 35 U.S.C. 102 – Test for Anticipation

For the sake of brevity the Applicant incorporates by reference the statement of the law of anticipation previously submitted.

4) 35 U.S.C. 103 - Obviousness

For the sake of brevity the Applicant incorporates by reference the statements of the law of obviousness and the quotations from MPEP 2143 previously submitted.

5) Application of Law to Rejections

Claim 46 has been rejected under 35 U.S.C. 102 (b) as being anticipated by US Patent 5,131,548. The Applicant respectfully traverses this rejection.

The test for anticipation under 35 U.S.C. 102(b) requires that the cited reference show, in a single document all of the claimed features united in the same way, to perform the same

function, to achieve the same result. The rejection identifies Chi item **10** of Figure **13** as being a cantilevered articulation through which vertical shear loads are passed between first and second car units. The Applicant disagrees, for any of three reasons, each of which, alone, would be sufficient to demonstrate that grounds for rejection under 35 U.S.C. 102 have not been established.

First, the releasable coupler shown in Chi Figure 13 is not cantilevered. It has the same shank, **12**, as the draw-bar embodiment of Chi's invention, such as it may be, shown in Figures **10** and **11**. Note in particular in Figure **10** that the shank connection at pin **34** has a rotational degree of freedom in the pitch direction, as illustrated. It is, therefore, not cantilevered.

Second, the connection is not one through which vertical shear loads are passed, or are intended to be passed, between the adjacent rail car units. In this regard, note that if the railroad car units of Figure 1 are joined by releasable couplers, as shown in Figures **12** and **13**, each unit is statically determinate, having trucks at either end. Therefore, no vertical shear passes – which would be difficult in any case, given that the coupler shanks can pitch, as noted above.

Third, when provided with releasable Janney couplers, the rail car “units” cease to be one railroad car but constitute two separate railroad cars. Thus, in the embodiment identified by the rejection, there is apparently no “articulated railroad car”, but rather two cars joined together.

In the event that the rejection is maintained, the Applicant respectfully requests an explanation of how a vertical shear force can be transmitted across the releasable coupling shown in Chi Figure 13. In any case, the Applicant respectfully submits that Chi does not establish grounds on which to base a rejection under 35 U.S.C. 102.

The foregoing commentary appears to apply with equal force to the current rejection of Claim 58 under 35 U.S.C. 102. Likewise, the Applicant respectfully submits that the rejection of Claim 58 is not well founded and requests that it be withdrawn and the Claim allowed.

Rejections Under 35 U.S.C. 103

All of the remaining rejections have been made under 35 U.S.C. 103 and employ US Patent 5,131,548 of Chi as the primary reference. The applicant traverses all of these rejections.

To the extent that the rejections under 35 U.S.C. 103 rely on Chi, the Applicant re-states the shortcomings of Chi as noted above. That is to say, *prima facie* grounds for rejection under 35 U.S.C. 103 have not been established because Chi does not have the features attributed to it by the commentary in the Office Action.

Secondly, to the extent that the rejections under 35 U.S.C. 103 rely on combinations of references, the Applicant respectfully submits that no grounds have been established in the objective evidence of record in the case from which suggestion, motivation or incentive to make the proposed combination can be inferred.

Chi and Saxton

How, for example, are Chi and Saxton to be combined? Is Saxton's shared truck to be removed or included? How? Why? The point of Saxton's truck being located under Saxton's articulated connector is to provide the vertical reaction – the very vertical force that it seems cannot be passed by Chi's couplers.

Chi and Beigel

Even if the combination were to yield the features that are alleged in the rejection (which the Applicant respectfully submits it appears it would not), the office action is silent as to why any person skilled in the art would do such a thing. Why, for example, would a person skilled in the art combine a releasable coupler with Biegel's hooks and links? Those links cannot be uncoupled by railyard personnel during normal humping or flat switching, so why use a releasable E or F type coupler? Why use Biegel's hooks and links with Chi's statically determinate car units? What purpose would the hooks serve for statically determinate car units? What would be the point?

Chi and Bock

As a preliminary matter, the Applicant notes that Chi neither discloses a "two-truck middle unit" nor does it disclose a cantilevered articulation. How can a disclosure that shows and describes, at most, a pair of draw-bar connected units show a "middle" unit? How is this possible? As for combining the references, the Applicant again asks: Why?

Where, in the objective art of record is there any explanation of why a person skilled in the art would make the proposed combination? Chi has either a draw-bar that can pitch, or releasable couplers on shanks that can pitch. How could Bock's arrangement work with either?

The Applicant respectfully submits that no proper foundation has been demonstrated to establish *prima facie* grounds for rejection of any of the currently pending claims under 35 U.S.C. 103. The Applicant therefore requests withdrawal of the rejections and allowance of the case.

6) Objection to Claims 66 - 71

The Office Action Summary indicates there is an objection to claims 66 – 71. However, there does not appear to be an explanation of the objection. Clarification would be helpful.

7) Claims 50, 53, 62, 65 and 83

The Office Action Summary indicates that these claims are pending. The Applicant also believes that these claims are pending in the case. However, there is no indication as to whether they have been allowed or rejected. Clarification would be appreciated.

8) Conclusion

In view of the foregoing arguments and claim amendments the applicant submits that the claims are in a condition to permit allowance. Therefore the applicant requests early and favourable disposition of this application.

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